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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,357	03/23/2006	Meredith Lunn	101046.0001US	9449
34284	7590	02/04/2008		
Rutan & Tucker, LLP. 611 ANTON BLVD SUITE 1400 COSTA MESA, CA 92626			EXAMINER MAUST, TIMOTHY LEWIS	
			ART UNIT 3751	PAPER NUMBER
			MAIL DATE 02/04/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/573,357

Applicant(s)

LUNN ET AL.

Examiner

Timothy L. Maust

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10,12,13,15-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10,12,13,15-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 6/26/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 17 recites the limitation "the outer ring portion" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6-8, 12, 13, 16-18 and 21 rejected under 35 U.S.C. 102(b) as being anticipated by Dame.

In regard to claims 1, 2, 6, 7, 13, 16-18 and 21, the Dame reference discloses a nozzle (Figure 1) having a spout 32 through which a fuel flows from an upstream to a downstream direction, comprising: a rubber diaphragm 10 circumferentially coupled to

and at a position near a downstream end of the spout, wherein the diaphragm has a body and a multi-branched opening (20 and 22) to form a pressure-activated valve; and wherein the diaphragm is responsive to fuel pressure in the spout upstream of the diaphragm such that a portion of the diaphragm flexes between a downstream position that opens the valve (Figure 3) and an upstream position that closes the valve (Figure 2).

In regard to claim 8, the diaphragm is capable of being placed at any distance from the end of the spout.

In regard to claim 12, inasmuch structure that is defined by an installation frame, springs 14 and 15 meet the claim limitation.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4, 6, 7 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dame in view of Brown et al.

The Dame reference discloses the invention substantially as claimed, but doesn't disclose having at least three or four branches. However, the Brown et al. reference

discloses another dripless nozzle 3 having branches 57 that open and closed due to the pressure of the liquid being dispensed and when closed keep the liquid from dripping. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute a self sealing valve for the Dame valve as, for example, taught by the Brown et al. reference, wherein so doing would amount to mere substitution of one functional equivalent sealing valve for another and the selection of any of these valves would work equally well on the Dame device.

In regard to claims 5 and 20, the Dame reference in view of the Brown et al. reference discloses the invention substantially as claimed, but doesn't disclose the valve being donut shaped. However, it would have been an obvious matter of design choice to make the valve a donut shape, since applicant has not disclosed that a donut shaped valve solves any stated problem or is for any particular purpose and it appears that the invention would perform equally with or without a donut shape.

Claims 9, 10, 15 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dame.

In regard to claims 9, 10 and 22, the Dame reference discloses the invention substantially as claimed, but doesn't disclose the flexibility of the diaphragm to travel a certain distance or open a certain amount. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a valve that travels a specified distance (0.25 cm or 2 cm) or opens a certain amount (i.e., 90%), since it

has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617F 2d 272, 205 USPQ 215 (CCPA 1980).

In regard to claim 15, inasmuch structure that is defined by an installation frame, springs 14 and 15 meet the claim limitation.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited prior art of record pertains to various nozzles having drip preventing adapters, similar to applicant's device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy L. Maust whose telephone number is (571) 272-4891. The examiner can normally be reached on Mon. - Thur. 6:30 - 5:00.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy L Maust/
Primary Examiner
Art Unit 3751

Tlm
1/25/08